

**ALASKA STATE LEGISLATURE
HOUSE JUDICIARY STANDING COMMITTEE**

May 9, 2004

3:35 p.m.

MEMBERS PRESENT

Representative Lesil McGuire, Chair
Representative Tom Anderson, Vice Chair
Representative Dan Ogg
Representative Ralph Samuels
Representative Les Gara
Representative Max Gruenberg

MEMBERS ABSENT

Representative Jim Holm

COMMITTEE CALENDAR

CS FOR SENATE BILL NO. 306(FIN) am
"An Act relating to the practice of naturopathic medicine; and providing for an effective date."

- HEARD AND HELD

CS FOR SENATE BILL NO. 97(JUD) am(ct rule fld)(efd fld)
"An Act relating to public interest litigants and to attorney fees and costs and the posting of bonds or other security."

- SCHEDULED BUT NOT HEARD

CS FOR SENATE BILL NO. 269(CRA)
"An Act relating to access to library records, including access to the library records of a child by a parent or guardian."

- SCHEDULED BUT NOT HEARD

PREVIOUS COMMITTEE ACTION

BILL: SB 306

SHORT TITLE: NATUROPATHIC MEDICINE

SPONSOR(S): SENATOR(S) SEEKINS

02/06/04	(S)	READ THE FIRST TIME - REFERRALS
02/06/04	(S)	L&C, FIN
02/19/04	(S)	L&C AT 1:30 PM BELTZ 211

02/19/04 (S) Heard & Held
 02/19/04 (S) MINUTE(L&C)
 02/26/04 (S) L&C AT 1:30 PM BELTZ 211
 02/26/04 (S) Moved SB 306 Out of Committee
 02/26/04 (S) MINUTE(L&C)
 02/27/04 (S) L&C RPT 1DP 3NR
 02/27/04 (S) NR: BUNDE, FRENCH, STEVENS G;
 02/27/04 (S) DP: SEEKINS
 03/11/04 (S) FIN AT 9:00 AM SENATE FINANCE 532
 03/11/04 (S) -- Meeting Canceled --
 03/25/04 (S) FIN AT 9:00 AM SENATE FINANCE 532
 03/25/04 (S) Heard & Held
 03/25/04 (S) MINUTE(FIN)
 03/30/04 (S) FIN AT 9:00 AM SENATE FINANCE 532
 03/30/04 (S) Heard & Held
 03/30/04 (S) MINUTE(FIN)
 04/27/04 (S) FIN AT 9:00 AM SENATE FINANCE 532
 04/27/04 (S) Moved CSSB 306(FIN) Out of Committee
 04/27/04 (S) MINUTE(FIN)
 04/28/04 (S) FIN RPT CS 4DP 2NR 1AM SAME TITLE
 04/28/04 (S) DP: GREEN, WILKEN, DYSON, STEVENS B;
 04/28/04 (S) NR: HOFFMAN, OLSON; AM: BUNDE
 05/05/04 (S) TRANSMITTED TO (H)
 05/05/04 (S) VERSION: CSSB 306(FIN) AM
 05/06/04 (H) HES AT 3:00 PM CAPITOL 106
 05/06/04 (H) <Pending Referral>
 05/07/04 (H) READ THE FIRST TIME - REFERRALS
 05/07/04 (H) JUD
 05/08/04 (H) JUD AT 11:00 AM CAPITOL 120
 05/08/04 (H) Scheduled But Not Heard
 05/09/04 (H) JUD AT 3:00 PM CAPITOL 120

WITNESS REGISTER

BRIAN HOVE, Staff
 to Senator Ralph Seekins
 Alaska State Legislature
 Juneau, Alaska

POSITION STATEMENT: Presented SB 306 on behalf of the sponsor,
 Senator Seekins.

SENATOR RALPH SEEKINS
 Alaska State Legislature
 Juneau, Alaska

POSITION STATEMENT: Sponsor of SB 306.

REPRESENTATIVE PEGGY WILSON

Alaska State Legislature
Juneau, Alaska

POSITION STATEMENT: During discussion of SB 306, as chair of the House Health, Education and Social Services Standing Committee, responded to questions regarding a proposed committee substitute for HB 434, Version W, and provided comments.

SCOTT LUPER, N.D.

Alaska Association of Naturopathic Physicians (AKANP)
Fairbanks, Alaska

POSITION STATEMENT: Provided comments and responded to questions during discussion of SB 306.

KAYCIE ROSEN, N.D.

Anchorage, Alaska

POSITION STATEMENT: Provided comments and responded to questions during discussion of SB 306.

ALEX MALTER, M.D., President

Alaska State Medical Association (ASMA)

Juneau, Alaska

POSITION STATEMENT: During discussion of SB 306, provided comments and urged members not to support the bill.

DON LEHMAN, M.D.

Sitka, Alaska

POSITION STATEMENT: Responded to a question during discussion of SB 306.

DAVID M. HEAD, M.D., Chair

Alaska State Medical Board (ASMB)

Nome, Alaska

POSITION STATEMENT: During discussion of SB 306, provided comments, urged a "No" vote, and responded to questions.

ACTION NARRATIVE

TAPE 04-82, SIDE A

Number 0001

CHAIR LESIL McGUIRE called the House Judiciary Standing Committee meeting to order at 3:37 p.m. Representatives McGuire, Samuels, Gara, and Gruenberg were present at the call to order. Representatives Anderson and Ogg arrived as the meeting was in progress.

SB 306 - NATUROPATHIC MEDICINE

[Contains discussion of HB 434.]

Number 0044

CHAIR McGUIRE announced that the committee would consider CS FOR SENATE BILL NO. 306(FIN) am, "An Act relating to the practice of naturopathic medicine; and providing for an effective date."

CHAIR McGUIRE asked what the differences are between the Senate and the House versions of the bill.

Number 0249

BRIAN HOVE, Staff to Senator Ralph Seekins, Alaska State Legislature, sponsor, on behalf of Senator Seekins, noted that the committee has before it [CSSB 306(FIN) am], which, he opined, has been greatly improved from the original version via the committee process. He relayed that the sponsor has listened to and read extensive testimony on both sides of the issue. As a result, [CSSB 306(FIN) am] now contains some sideboards to accommodate naturopaths, particularly with regard to prescription schedules IIIA, IVA, and VA drugs. This was accomplished by providing for a process whereby a naturopath would collaborate with a doctor to develop a formulary and work together on certain issues. He expressed the hope that [CSSB 306(FIN) am] will satisfy most, though perhaps not all, of the concerns raised by the bill, and posited that most of the bases have been covered.

CHAIR McGUIRE noted that a sectional analysis has been provided to members. In response to a question, she relayed that copies of the original version and latest version of HB 434 would be provided to members as well.

MR. HOVE explained that the sectional analysis pertains to CSSB 306(FIN) and so does not reflect the amendment adopted on the Senate floor, and offered his understanding of what that Senate floor amendment entailed. He suggested that this change will ensure that just one or two doctors aren't collaborating with all the naturopaths, since this might not be good public policy.

MR. HOVE went on to explain that Section 1 of [CSSB 306(FIN) am] changes "naturopathy" to "naturopathic medicine", and is basically a housekeeping provision. He characterized Sections 2 and 3 as similar, and said Section 4 repeals and reenacts AS 08.45.030, which pertains to the issuance of a license. He

noted that the original law [regarding naturopaths] is 17 years old, and so much of what [CSSB 306(FIN) am] does is update existing statute with what he described as much-needed revisions. Section 5 speaks to restrictions on the practice of naturopathic medicine, he relayed.

CHAIR McGUIRE noted that the sectional analysis indicates that Section 4 removes a reciprocity provision previously available to naturopaths licensed in other states. She asked why [the sponsor] would want to do that.

MR. HOVE said doing so will give the state more control over who it wishes to license versus just allowing for automatic reciprocity.

CHAIR McGUIRE directed attention to Section 5 and offered her understanding that the language therein had been removed from some version of one of the bills though she couldn't recall which one.

MR. HOVE offered his belief that that language had not been removed from any of the Senate versions of the bill, the latest of which is currently before the committee.

CHAIR McGUIRE noted that Section 5 allows for the performing of minor surgery.

MR. HOVE offered his understanding that that provision covers only very minor types of [surgeries], not anything that would be considered invasive surgery.

CHAIR McGUIRE offered the adage that "surgery is only major when it's on you - it's minor when it's on others."

Number 0890

REPRESENTATIVE GARA asked about AS 08.45.120(a)(6), which is referenced in Section 5.

CHAIR McGUIRE posited that perhaps it is referencing a proposed new provision of statute that can be found further on in the bill. She suggested that perhaps the naturopaths that will be testifying could provide a description of what constitutes "minor surgery". She noted that Section 6 addresses the grounds for suspension, revocation, or refusal to issue a license.

MR. HOVE said the important part of the bill is Section 9 - new statutory language that addresses collaborative agreements, continuing education, and a peer review process. Directing attention to Section 10, starting on page 5, regarding "Authorized activities; use of titles", he noted that it says in part, "A person licensed under this chapter may ... (4) if authorized under regulations of the department, prescribe schedules IIIA, IVA, and VA controlled substances ...". He characterized these controlled substances as the heart of the addictive drugs, offered his belief that [CSSB 306(FIN) am] now contains "something that will be acceptable in terms of arranging for these collaborative agreements," and again mentioned putting together a formulary between the naturopath and the doctor such that there will be a pretty good one-on-one understanding between them regarding what is allowed.

MR. HOVE said: "So the sideboard we built in here is the collaborative agreements, ... specifically with respect to developing that formulary; then it goes through ... the regulatory process - so the sideboards that are here will be fleshed out in that process; and then it comes down to how it works in practice." He described the latter as being a one-on-one situation such that "individuals will have a pretty good idea of who they're working with, what they're capabilities are and level of experience, and so on and so forth."

CHAIR MCGUIRE posited that much of the controversy over this bill probably centers on the issue of schedules IIIA, IVA, and VA controlled substances as described under AS 11.71.160, 11.71.170, and 11.71.180. She noted that phenobarbital is included in [schedule IVA], and asked why a naturopath would be [prescribing/using] such a drug.

MR. HOVE suggested that the naturopaths who will be testifying could better address that issue.

CHAIR MCGUIRE, noting that the sponsor had joined them via teleconference, mentioned that the bill seems somewhat circular with regard to the reference to "minor surgery".

Number 1267

SENATOR RALPH SEEKINS, Alaska State Legislature, sponsor, offered his belief that "minor surgery" would include simple things like treating abrasions, removing a piece of glass or gravel, or sewing a couple of stitches; "it's nothing invasive." He also offered his belief that naturopaths have had training in

minor surgery "before they could get there." With regard to schedules IIIA, IVA, and VA controlled substances, he said that under the bill, the naturopath will have to review a particular drug with the collaborative physician, and have an individual, written protocol - which they must both agree on - regarding how to use that drug. Additionally, before a naturopath may prescribe a schedule IIIA controlled substance, the protocol that's developed and agreed to must be patient specific.

SENATOR SEEKINS said he feels that of any other state's law, [CSSB 306(FIN) am] contains the best sideboards that exist with regard to allowing naturopaths to service their patients. He predicted that California and Alaska will be vying to see which state has the best collaborative agreements. He, too, suggested that the naturopaths that will be testifying can better address some of the committee's questions.

CHAIR MCGUIRE noted that "minor surgery" is defined on page 8, lines 18-29:

- (6) "minor surgery"
 - (A) means the use of
 - (i) operative, electrical, or other methods for surgical repair and care incidental to superficial lacerations and abrasions or superficial lesions, and the removal of foreign bodies located in superficial tissues; and
 - (ii) antiseptics and local anesthetics in connection with methods authorized under (i) of this subparagraph;
 - (B) does not include use of general or spinal anesthetics, major surgery, surgery of the body cavities, or specialized surgery, such as plastic surgery, surgery involving the eyes, or surgery involving tendons, ligaments, nerves, or blood vessels.

Number 1472

SENATOR SEEKINS, in conclusion, said he introduced SB 306 at the request of the naturopaths, who were seeking to better serve their patients in a safe and consistent manner through the use of pharmaceuticals and minor surgery. The goal of the naturopaths, he surmised, was to provide the same high level of care as physicians with regard to pharmaceutical protocols, and the collaborative agreement provisions of [CSSB 306(FIN) am] should help them achieve that goal. Noting that a lot of people

have done a lot of hard work on this issue, he offered his belief that [CSSB 306(FIN) am] is a good bill.

CHAIR MCGUIRE, referring to a House version of the bill [which failed to move out of the House Health, Education and Social Services Standing Committee] - committee substitute (CS) for HB 434, Version 23-LS1574\W, Mischel, 5/4/04 - noted that it doesn't contain reference to "minor surgery". She also noted that "the liability is different."

Number 1572

REPRESENTATIVE PEGGY WILSON, Alaska State Legislature, speaking as chair of the House Health, Education and Social Services Standing Committee, remarked, "The liability is there now, it wasn't [before]."

CHAIR MCGUIRE clarified that she is speaking about liability with regard to the collaborative agreements.

Number 1601

SCOTT LUPER, N.D., Alaska Association of Naturopathic Physicians (AKANP), said he would be speaking on behalf SB 306, and noted that he has three main points to make. He elaborated:

The first one is about education, the second one is about safety, and the third one is about cooperation. ... In terms of education, in order to become a naturopathic physician, one needs to graduate with good grades from an "undergrad degree," then get accepted into naturopathic medical school, which is not an easy thing to do, and then go through four years of naturopathic medical school. The first two [of those four] years being lecture and didactic, and the second two years being an emphasis on outpatient clinical training: basically working with doctors - mostly naturopathic doctors but also some "M.D.s and D.O.s" - treating patients, working in their offices, ... working in the college clinic, and [working] some rotations in hospitals, especially in Arizona.

After that, you need to pass the national board exams, which makes sure that you're safe, and then after that you can qualify for a license. Now, the degree of education of naturopathic physicians does exceed other health care providers here in Alaska that do have

prescription rights, including nurse practitioners [N.P.s], and way exceeds the education of physician's assistants [P.A.s]. And the level of prescription rights that we've negotiated ... with this compromise bill is actually less than the nurse practitioners and [physician's] assistants, though the collaboration agreement really is modeled on that of the physician's assistants - since it's already in statute we just basically adopted it as best we could. So ... the point I'm making is that we're well trained.

Number 1696

DR. LUPER continued:

The next point is safety. And the fact of the matter is, ... this isn't new - prescription rights aren't new for naturopathic physicians. Of the ... 14 states that license naturopathic physicians, 12 of them have some level of prescription rights. And we investigated the rate of disciplinary actions taken against naturopathic physicians with prescription rights, and the fact of the matter is, ... in every state that we got results back from, the complaints and the disciplinary actions taken against naturopathic physicians was less than that of other doctors, M.D.s in particular. For example, in Oregon, where the ... right for prescriptions has been the longest, the rate for M.D.s is about [.5] percent [and] the rate for naturopathic physicians is about [.33] percent. In Arizona, where the prescription rights are the broadest, the rate against M.D.s is about 1 percent and the rate for naturopathic physicians is about [.5] percent. Nationwide, the rate is about [.33] percent for naturopathic physicians.

CHAIR MCGUIRE noted, however, that there are probably more physicians practicing than there are [naturopathic physicians].

DR. LUPER pointed out, though, that the statistics he is relaying involve "rate." In other words, if there are 1,000 physicians and one looked at 100 of them, it would be the same as having 100 naturopathic physicians and looking at 10 of them.

REPRESENTATIVE GRUENBERG surmised, though, that the difference in percentages between the two groups could be because

physicians are probably performing more difficult and more risky procedures.

DR. LUPER acknowledged that point. He mentioned, though, that he is merely attempting to illustrate that there is a track record of naturopathic physicians safely using prescription medications.

REPRESENTATIVE GARA said: "I take it there's a statute that comes up with a formulary system with a physician collaborator for physician's assistants."

Number 1787

DR. LUPER said "No, that's not correct." The prescription authority for physician's assistants is broader than what is being proposed via the bill for naturopathic physicians, he reiterated.

REPRESENTATIVE GARA surmised, then, that if "we're going to provide prescription authority, what we're going to want to do is allow a naturopath to administer [a] prescription without getting approval every single time."

DR. LUPER concurred.

REPRESENTATIVE GARA asked whether physician's assistants can prescribe drugs without approval for that prescription every single time.

DR. LUPER said they can. In fact, they can practice without having a M.D. in their clinic, and many do, often because they are in communities that don't have M.D.s. Also, physician's assistants don't have to clear a plan of treatment with an M.D. on a case-by-case basis before treating a patient. He remarked that the intention of the [proposed] law is to have oversight, to have M.D.s oversee protocols.

DR. LUPER went on to say:

The way we see this working is, when the bill passes and becomes law, we'll go out and find M.D.s that can supervise us, and we'll create a list of drugs that we want to use in our particular practice. Now, our practices are not identical. Some of us [who] emphasize pain control, for example, may have certain medications that they want to use. Most of us just

emphasize ... family medicine, and there's certain things that we want to use. We'll take this list to our M.D. ... collaborator, and we'll discuss these medications with them and get their approval, to say, "Yes, these are appropriate ... to use in these situations," so that there is a high degree of safety, [a] high degree of oversight - more than [in] any other state in the United States that licenses naturopathic physicians.

And when we create these protocols, ... my hope ... is that we'll create relationships with these M.D.s, so that not only will we learn from them, but it's my conjecture that they're going to learn from us as well. ... In the treatment of hypertension [for example] I've had some success; I think I'll be able to teach them a thing or two. And I think it'll be a great advantage for the general public to have us working together hand in hand. In fact, what this bill does is it really forces that cooperation. That's how I sold [the concept of the bill] to my colleagues, and they bought it.

Number 1921

CHAIR MCGUIRE asked how a pharmacist would know whether a particular naturopathic physician has a collaborative agreement with a physician or whether a naturopathic physician is staying within the bounds of a collaborative agreement.

DR. LUPER explained that the naturopathic physicians will send their pharmacists the list of the medications they have approval for. In that way, a relationship will develop between the naturopathic physician and the pharmacist, and the pharmacist will come to know what the naturopathic physician can and cannot prescribe.

CHAIR MCGUIRE, noting that Alaska is a big state, asked whether Dr. Luper is saying that naturopathic physicians will provide every pharmacy in the state with a copy of his/her collaborative agreement. Or would it be part of a collaborative agreement that a naturopathic physician can only use certain pharmacies?

DR. LUPER replied, "Only certain pharmacies." For example, if a patient from Barrow came to see him with the end result being that he wanted to prescribe a particular medication, he would send/fax a copy of his collaborative agreement to a pharmacist

in Barrow. This sort of thing would happen on a case-by-case basis. For the most part, though, with regard to his practice, there are a few pharmacists that he already knows and respects, and so he would be working with those pharmacists, he relayed.

CHAIR McGUIRE told Dr. Luper that she is not worried about how he will conduct himself; rather, she is concerned with what effects the bill will have on the population at large. She said she wants something in place that will minimize the possibility that someone might die as a result of allowing naturopathic physician to prescribe medication.

Number 2088

DR. LUPER, in response to questions, offered his belief that physician's assistants have prescription rights for schedules IIA-VA controlled substances as well as "legend" drugs, and that M.D.s do provide some oversight, though not on a case-by-case basis. He noted that nurse practitioners have the same prescription rights as physician's assistants, but are not subject to any supervision from a doctor; they are completely independent.

DR. LUPER concluded:

I think I did make my third point, which is cooperation; I think I spoke to that in answering your questions. ... Just to summarize, ... I think the education is very good for naturopathic physicians, ... that we are well educated. We do go to school. In fact, a point I forgot to mention is pharmacology specifically. The level of [classroom] pharmacology that we get is comparable to that of M.D.s ... and D.O.s. ... The safety record of naturopathic physicians with prescription rights, and that's unsupervised prescription rights, ... is safe, is good. And finally, ... this bill creates a vehicle, or a discipline if you will, for naturopathic physicians and allopathic physicians or M.D.s to work together for the betterment of Alaskans.

CHAIR McGUIRE directed attention to page 2, lines 10-11, which says in part, "is a graduate of an approved naturopathic medical college or program". She asked what "approved" in this context means.

DR. LUPER replied:

That is spelled out later on in the bill. ... What that approval is, [is it] comes from the Council on Naturopathic Medical Education [CNME]; that's an accrediting body that's ... empowered by the federal government, and every naturopathic college in North America has accreditation, or at least candidacy for accreditation, from the CNME. Now, most of the colleges also have accreditation from local accrediting bodies. For example, Northwest Accrediting Agency accredits its Northwest schools, "central" for Arizona schools, and so on and so forth. That's the list of schools; it's basically schools recognized by the federal government.

Number 2291

CHAIR MCGUIRE, mentioning a recent scandal involving masters degrees in teaching that were available on the Internet, asked whether the CNME regularly polices the entrance and approval of schools.

DR. LUPER replied:

I can speak to that from personal experience. I was chairman of diagnostics at the Southwest College of Naturopathic Medicine, and ... one of my jobs was to have us go through the self-study for the CNME. And it was very rigorous, extremely rigorous. We had to look at every aspect of operations, and it was a years-long process to get accreditation. We worked very hard and we were very proud when we received accreditation.

Now, there are naturopathic colleges, quote, "colleges," or schools that do generate correspondence degrees; those do exist in the United States. But in states that license naturopathic physicians, you can't practice as a naturopathic physician or a naturopathic doctor with one of those degrees because they're not accredited by the CNME. In fact, there's some misconception about this, that the passage of this bill will allow uneducated pseudo-naturopaths to [have prescription rights, but that's not true.] [The previously bracketed portion was not on tape, but was taken from the Gavel to Gavel recording on the Internet.]

TAPE 04-82, SIDE B

Number 2346

DR. LUPER continued:

And in fact, it's no more true than someone who got their M.D. degree from the Internet being able to practice allopathic medicine in this state. That can't happen; that's against the law, and likewise for the naturopathic physician.

CHAIR MCGUIRE asked Dr. Luper whether he would be amenable to an amendment that specifies that in order to be licensed, a naturopath must graduate from a naturopathic medical college certified by the CNME.

DR. LUPER said he would not object to such an amendment. He mentioned, however, that the name "naturopath" isn't a protected name, so anybody with any kind of education can say, "I'm a naturopath," and hang up a shingle. So one of the possible benefits of [CSSB 306(FIN) am] is that it will protect that name because it says that one must have gone through a certain level of education in order to call oneself a naturopath. In response to further questions, he offered his understanding that currently, there are five naturopathic schools that have CNME accreditation and one that has a candidacy for CNME accreditation. He indicated that the intent of the bill is that only graduates of CNME accredited schools should have prescription rights as proposed in the bill.

DR. LUPER opined that naturopathic schools that are not accredited do not offer the same level of education as those that are accredited. He noted, for example, that the "Clayton School of Natural Healing" has a nine-month-long program, completion of which results in a certificate being issued that says a person is a naturopath. "Those are the folks that would not be licensable here in Alaska," he added. In response to further questions, he reiterated his comments regarding the amount of education required to graduate from an accredited naturopathic school, specifically that a person must have a four-year degree with good grades before being permitted to enroll in an accredited naturopathic degree program.

Number 2199

KAYCIE ROSEN, N.D., said she fully supports Dr. Luper's comments. She went on to say:

The main point that I want to make today is that our intention with this bill and as naturopathic physicians is to [be] absolutely committed to the safest, most comprehensive primary care for our patients. And so by creating this bill, what we're really hoping for is just to increase our ability to be as safe and as effective as possible, to make sure that our patients, when they come in, are able to receive exactly what they need at that time within the context of ambulatory outpatient care. And so by doing this, our patients aren't necessarily going to receive different care in the sense of whether it is appropriate at the time to receive some sort of a prescription medication; it's a question of whether they will be able to do it within ... adequate cost and within an adequate time period.

[Chair McGuire turned the gavel over to Representative Samuels.]

And so [if] my patients ... come in [and] need, for [example], an antimicrobial, an antibiotic, blood pressure regulating medication, ... blood glucose regulating medication, ... or hormones - which are the things that we would most likely [be] dealing with here in terms of what we'd like to be prescribing - we're saving our patients the money [they'd spend] to go see another provider and also the time: ... [it] is very, very challenging to get patients in to see ... other family practitioners, ... endocrinologists, et cetera. And so I just want to really underline that my commitment and our commitment as a profession is to safe, quality, comprehensive care, and that ... having this collaboration as part of the medical community is absolutely our intention.

REPRESENTATIVE OGG - noting that over the course of the legislative session, the committee has heard much about malpractice insurance costs and the alleged diminishing numbers of doctors that can provide care in Alaska - asked how the bill will help that situation and whether it will help lower the cost of medicine in Alaska.

Number 2064

DR. ROSEN relayed her belief that it would do the later, and offered an example wherein a patient, after consulting many providers, came to her and she, through a basic "workup," determined that the patient had very high blood sugar - in the high-200s - which is a potentially dangerous high number. As naturopathic doctors, she remarked, they are familiar with a lot of therapies that are really good at helping to bring down blood sugar levels. The patient, however, was at a place - physically, financially, and emotionally - where it was very difficult for him to be regulating his diet and to be taking a lot of different types of supplements. When he called to get an appointment with an endocrinologist, the patient found he would have to wait six weeks.

DR. ROSEN indicated that had she been able to prescribe glucophage to regulate his blood sugar while she and her patient worked out other aspects of a treatment plan, it would have saved the patient a lot of money because he was left with the choice of going to either a walk-in family clinic or the emergency room in order to get that medication. This situation was not efficient, either for the patient or for the people who saw him; the patient spent a lot of time and money out of pocket that he wouldn't have had to spend had she been able to prescribe the medication. This sort of thing happens all time, she remarked. As another example, if a patient has hypothyroidism, under the bill a naturopath would be able to give the person thyroid supplementation without sending the patient on to someone else and thereby engendering an extra doctor bill and an extra wait while being in a potentially dangerous situation.

DR. ROSEN, in response to questions, relayed that she has been in practice for less than a year, and that on average, she has to refer people out for prescription medication one to two times per week - usually for some type of antibiotic.

[Representative Samuels returned the gavel to Chair McGuire.]

REPRESENTATIVE WILSON asked for a description of the surgical training naturopathic physicians receive.

Number 1918

DR. LUPER replied:

We have two courses in minor surgery, ... and in those courses we learn the various techniques involved in

minor surgery. We learn sterile technique, we learn to do anesthesia appropriately - with epinephrine, without epinephrine - so on and so forth, those kinds of things. And then at the end of those two courses, we go into the clinic with a list of check-offs, things that we need to: we need to sew up a laceration, we need to remove a mole, we need to remove a sebaceous cyst, ... we need to lance an infection - a boil, ... abscess, and those kinds of things.

There's check-offs - and several of them - and what we do is we look hard for those things as they come in the door, and enthusiastically jump on the people who have those and practice with them; of course, it's a teaching clinic. ... We practice those things; then, at the end of that process, we take a test. ... One of the tests in the national board exam is on minor surgery. And if you can pass the courses [and] you can do the procedure successfully - under supervision - and then finally pass the ... national board exam, then you get the right to do minor surgery in states that allow you to do minor surgery.

REPRESENTATIVE WILSON asked how many procedures must be done, at a minimum, for each item on the check-off list.

DR. LUPER replied:

I can't answer ... for all the schools, I only can answer it for the one school that I went through. And I do want to say, too, that not all the schools actually practice minor surgery; some of those schools are located in states that don't allow minor surgery. So [with regard to] those states that don't allow minor surgery, ... the students that graduate from [the schools in] those states would not be able to perform minor surgery here in Alaska without getting additional training. Now, that's the kind of stuff that goes into regulations and not into [statutory] law, and that'll be addressed in those regulations.

Number 1832

[In speaking] for myself, though, what I ended up having to do [was] three sebaceous cysts, one lipoma, any number of lacerations - I couldn't count how many

lacerations, ten, maybe - and then ten moles as well. Boy, I was scrambling for those moles; I traded moles, I've lost moles, myself, trading back and forth with people - ... we had to work hard to get that number of them. But at the end of that I certainly felt competent in doing minor surgery. In fact, it turns out that I had some skill at it - I was pretty good at it - and went on to write questions for the national board exam. ...

CHAIR MCGUIRE said she wants to see naturopathic physicians and allopathic physicians working together, and noted that this is already happening to some degree, both in Alaska and nationally. A concern, however, is how the surgical provisions of the bill will interplay with various licensing requirements as they pertain to allopathic physicians.

DR. LUPER indicated that that aspect has not yet been researched. He added:

I'm not overambitious with minor surgery; ... if it's simple and straightforward, I'm going to do it, [but] if it is at all complicated - and I can speak, really, for my whole profession - we're going to refer to the people who do it best, as we do now. ... Stuff that we're not qualified [to do], or not experienced enough to be able to treat, ... we're very quick to refer. That's ... one of the major tenets of naturopathic medicine, is ... to first do no harm; ... that's the last thing I want to do, is send somebody with a botched minor surgery to the emergency room. Heaven forbid! So I'll [be] very quick to refer those. And Dr. Rosen, we had this discussion yesterday, she agrees - the same thing.

REPRESENTATIVE WILSON asked about the training that naturopathic physicians receive with regard to internal medicine.

Number 1641

DR. LUPER relayed that naturopathic physicians take courses in anatomy, physiology, biochemistry, histology, embryology and many other courses. They learn a lot of vocabulary and concepts about how the human body works, and pathology - how things go wrong. "Basically, we learn the same things that M.D.s and D.O.s learn at the same degree of intensity ... for those first two years," he added. He emphasized that students learn to

recognize illness in a class called "clinical physical diagnosis," which enables a naturopathic physician to interview a patient, get past medical history - family history, habits, review of systems - do a physical exam, and run appropriate lab tests to come up with a diagnosis. He remarked that this aspect [of training] is quite strong in naturopathic medicine.

DR. LUPER explained that after learning these various aspects of medicine, naturopathic physicians must pass a "clinic entrance exam" in order to be able to work in a clinical setting; naturopathic physicians can't get into the clinic unless they can show that they have a basic level of skill at doing the interview, doing the physical exam, identifying the appropriate lab tests, and then coming up with the correct diagnosis.

CHAIR McGUIRE surmised, then, that this applies to all CNME accredited schools.

REPRESENTATIVE WILSON asked whether the four years at a CNME accredited college would qualify a person for [allopathic] medical school.

DR. LUPER replied:

No, it would not because the medical schools don't recognize the education. Likewise, we wanted to take the national medical boards and we were told we couldn't. That's why we came up with the national naturopathic medical boards, is because we were not allowed to take the national medical boards. I wish we could. I think it would answer a lot of questions.

Number 1477

DR. LUPER, in response to another question, reiterated that the course work naturopathic physicians take doesn't count. He added:

The education is just thrown out wholesale. If you want to become an M.D., you have to start from the beginning. There's no reciprocity at all to my knowledge. ... The real difference between the ... three professions [N.D., M.D., D.O.] ... is in the second two years. In the second two years, what we're taught are natural methods of treating illness; we're taught how to use herbs, nutrients, diet, physical therapy. We're also taught how to use drugs

appropriately in certain situations, but given the choice between using a drug and using a natural substance and having the natural substance work, we'll go for ... [the natural substance] first.

It's in our nature in terms of our hierarchy of therapeutics to use something that will restore normal function in somebody as best we can. And there [are] differences; ... clearly there's a difference in philosophy, there's a difference in approach. There's certain ways of thinking about illness that we're imbibed with as a culture that's different from M.D.s, and it should be that way - there's some people that resonate more with natural medicine and there's some people that resonate more or get better results with allopathic medicine. And part of our job is to recognize [that] and to refer our patients to where they're going to get their [best] care.

DR. LUPER, in response to a comment, remarked that there is much more in common between N.D.s and M.D.s than there are differences.

CHAIR McGUIRE relayed that she thinks naturopathic medicine has a big role to play, and that she has two childhood friends that are N.D.s. She said that according to her understanding, the mission of a naturopathic physician is to try to treat patients holistically, to try to look at alternatives to chemicals, drugs, and invasive methods of treatment. Many times when one goes to an allopathic physician, she ventured, dietary and nutritional aspects are overlooked. One of the issues to contemplate is where do the two different philosophies/methods appropriately cross and where do they appropriately stay separate. She said she is trying to understand why they would want to move towards granting prescriptive chemical authority, minor surgery, and other types of things that are associated with allopathic medicine, to naturopathic physicians. Why shouldn't the focus of naturopathic physicians remain on naturopathic methods? Where is this push coming from?

Number 1270

DR. LUPER said the push is coming from his patients. So although naturopathic physicians are trained to look at a patient from a naturopathic perspective, from a holistic perspective, sometimes the patient just needs antibiotics. He offered an example of a patient with a kidney infection who came

to him while he was practicing in Arizona; in addition to discussing holistic ways of keeping one's kidneys healthy he was able to write prescription for that condition, and the patient improved. But practicing in Alaska, if faced with a similar case, he would have to refer the patient elsewhere. The same would occur if he saw a patient who needed thyroid medication - while practicing in Alaska, he would have to refer that patient elsewhere. Although the number of cases may not be great, he relayed, there are just enough that he feels he's got one hand tied behind his back; "I took the classes, I passed the national board exam, and I still can't ... [treat the patient].

CHAIR McGUIRE, mentioning a concern that someone might suffer serious consequences as a result of an N.D. not getting a diagnosis right and prescribing the wrong medication, asked what the harm is in having to refer a patient to someone else if holistic measures are not sufficient.

DR. ROSEN explained that a naturopathic physician's training is to provide ambulatory family care; therefore, N.D.s will be using the same diagnostic skills in determining whether it is appropriate to refer a patient elsewhere that any other family doctor - whether an M.D. or a D.O. - would use. The bottom line, she said, is that if a procedure is not appropriate for outpatient care, naturopathic physicians won't be performing it. In response to further questions, Dr. Rosen echoed Dr. Luper's comments regarding surgical training and what might be required [via statute and regulations] to ensure that a naturopathic physician has the appropriate training, and mentioned that students graduating from CNME accredited schools are required to have had 2,000-plus hours of clinical experience under supervising physicians, as well as other experience in either hospitals or similar clinical situations.

Number 0875

DR. LUPER added:

What's happening across the country is [that] M.D.s and N.D.s are working together more and more, that the profession is maturing, and that we're getting friends, frankly, colleagues that we're working with. And in Arizona, the students now do [an observatory] rotation through Banner Health emergency rooms, so that they get to see ... a wider variety of health ... conditions. And as time goes on, it's my hope and my ... [belief] that it's going to happen more - we're

simply going to see more of this cooperation, more of this working together.

REPRESENTATIVE GRUENBERG, noting that he is a fan of continuing education, asked why the continuing education provision of the bill doesn't take effect until January 1, 2007.

DR. LUPER said it might be because continuing education requirements are going to be "reported for two-year blocks." In response to another question, he indicated that he would support changing the effective date of that provision to January 1, 2006. He noted that currently, there is no statutory requirement, at all, for continuing education of naturopathic physicians.

Number 0700

ALEX MALTER, M.D., President, Alaska State Medical Association (ASMA), remarked that according to allopathic teachings, kidney infections, as was offered as an example by Dr. Luper, are classified as complicated, and it is during the five-plus years of clinical education that M.D.s experience as interns and residents that they learn that kidney infections are never considered simple. He then paraphrased from his written testimony, which read in part [original punctuation provided]:

The Alaska State Medical Association (ASMA) represents physicians statewide and is primarily works to ensure that Alaskans receive high quality healthcare. ASMA urges the committee to not support SB 306. The legislation would not enhance patient care nor would it improve access to care.

Training for naturopaths is less rigorous than that for medical doctors, in both length and depth of study. Its emphasis on natural healing does not allow students sufficient time to fully learn the in depth pathology, physiology and pharmacology needed to treat most medical conditions. A list compiled by the American Association of Naturopaths (Attachment 1) shows the different treatment modalities studied by naturopaths. Such a broad curriculum cannot allow the time needed to master the appropriate use of prescription drugs.

We are not convinced that the first two years of naturopath and medical schools are the same. But for

any courses that actually did cover material in the same detail, medical students might still be expected to master the content better than naturopaths. This is because students are only admitted to medical school if they've excelled in sciences as undergraduates and then passed rigorous entrance exams.

By comparison, we are not aware of similar admission tests for naturopath schools and some don't even require a college degree for enrollment. (While the naturopath doctors have argued this isn't true for programs accredited for the Alaskan licensure, the HHES committee heard testimony two days ago of a Bastyr student without a prior college degree enrolled in a ND program.)

REPRESENTATIVE GARA interjected to point out that one either is or isn't required to complete four years of college education before entering a naturopathic program at an accredited school, and so simply hearing testimony that someone heard from someone else that someone got into a naturopathic program at an accredited school without first completing four years of college education isn't helpful.

Number 0387

DON LEHMAN, M.D., acknowledged that he was the one who had provided the House Health, Education and Social Services Standing Committee with the aforementioned testimony, and that it pertained to his nephew who, he relayed, was accepted in the naturopathic program as a first-year student at Bastyr University even though he didn't have a four year degree.

REPRESENTATIVE GRUENBERG suggested that they do some research to find out whether Bastyr University offers a special program for exceptional students, one that might allow a few persons to start in the naturopathic program while still shy of a four-year degree. He also suggested that they could amend the bill such that it would require a four-year degree in addition to the educational requirements already listed in the bill.

Number 0189

DAVID M. HEAD, M.D., Chair, Alaska State Medical Board (ASMB), predicted that if Alaska becomes one of the few states that grants prescriptive rights to naturopaths, it will open the

floodgates for an onslaught of naturopathic physicians and providers all over the country that will be looking for a place to widen their scope of work far beyond their level of training. He went on to say:

I have absolutely nothing against naturopaths; I have consulted them myself regarding nutritional subjects, regarding my own health, and I think, when it comes to their own scope of work, that naturopaths can definitely add something to the healthcare and to the management of patients. And it's also not [an] issue of a turf battle. As a provider in Nome, Alaska, I would welcome the help from any qualified provider that I could get. But, in my opinion and the opinion of the [ASMB], naturopaths are not qualified ... to provide the type of primary care when it comes to prescribing medication and doing the type of minor surgery that is described here.

Neither their training nor their philosophy, the philosophy of their training, meets the standard of care that ... the Alaska public has come to expect and ... deserve. I'd like to have the members of the committee ... ask themselves if they want someone who's just received [pharmacological] training from a book or from a [CNME] course changing their heart medications or their hypertensive medications, or suturing up their son's face [the] next time he comes to the [emergency room after having some misfortunate accident.] [The previously bracketed portion was not on tape, but was taken from the Gavel to Gavel recording on the Internet.]

TAPE 04-83, SIDE A

Number 0001

DR. HEAD, referring to Dr. Luper's example of a patient with a kidney infection, offered his opinion that there are no uncomplicated cases from the viewpoint of the patient; "very few patients don't consider it an emergency when it is taking place on their body." He went on to say, "There are many things that a, quote, 'uncomplicated kidney infection' could actually be, and its medicine, unfortunately, is not black and white, it's not well tested on national board exams, and that's where the fear comes that this may be an area that the public of Alaska should not be exposed to." He relayed that the ASMB feels that it would be irresponsible and unconscionable to pass the bill,

that doing so would create a serious threat to the health and wellbeing of Alaskans; the ASMB strongly recommends a vote of "No."

REPRESENTATIVE OGG asked whether the ASMB has passed a resolution outlining its opinion of the bill.

DR. HEAD said the ASMB did not pass a resolution, though it did send a letter to the governor relaying its opinion of the bill.

REPRESENTATIVE GRUENBERG, referring to Dr. Head's hypothetical example of a child coming in with a laceration on his/her face, offered his belief that the bill specifies that minor surgery can include treating superficial lacerations but does not include performing specialized surgery such as plastic surgery. He asked how one would tell whether a laceration fell within the realm of needing plastic surgery.

DR. HEAD said that such a determination would be hard to make and would be dependant upon the eye of the beholder and his/her experience with similar lacerations. So much of what is in the bill is open to interpretation, he remarked, that he feels it would be premature to pass it. He suggested that the bill needs to have more work done on it.

Number 0321

CHAIR MCGUIRE noted that members' packets now include the ASMB's letter to the governor. Addressing Dr. Head, she said:

What do you feel is the appropriate way, over the interim, ... to have these discussions? Do you feel like there should be a task force? Do you feel like you ought to select some folks from the [ASMB] and the naturopaths ought to select some folks from their board to begin these dialogs? Because I think what you have seen this session is a wakeup call that there [are] folks across the state of Alaska that see naturopathic physicians, that have a concern about this bill passing.

And we are just mere policy makers [and] there are arguments on both sides. But one thing that I think has become clear is that there does need to be some communication between the M.D.s and the N.D.s with respect to these protocols, ... the differences in defining serious or ... superficial laceration versus

a no-superficial [laceration], how could these collaborative agreements be worked out, and so on. Do you have any recommendation or ideas that you would be willing to make?

DR. HEAD replied:

The [ASMB] is always open to any type of communication. We've had a similar issue going on with the Board of Pharmacy recently, and we have actually met with the Board of Pharmacy, we've invited them to our meetings, and ... we've sent [a] representative to their meetings. And, like I said during my statement, I definitely think naturopaths have a place in the medical care of the patients of Alaska, and I would be more than happy to meet with them or to have members of the [ASMB] meet with them and work the details out, work something out that was agreeable to us and to them if at all possible. I think [the] more communication that goes on in the health field, the better off we are, because I definitely think that there is a place [for naturopathic medicine]. I just don't think that this bill necessarily addresses it.

Number 0457

CHAIR McGUIRE said she wants Dr. Head's ideas about the two groups working together in writing as soon as possible, perhaps by tomorrow, including his thoughts about whether there should be a governmental vehicle to highlight the issues. She mentioned that she would be asking the same of the naturopathic physicians who've come to today's meeting. She indicated that what she would like to see in writing are: "what would be your expectations, what would be the things that you would hope to get out of such a working relationship, and whether or not you believe it takes us to force that issue." It's really easy for both sides to say, "Well, our doors are open," but then no one makes an effort to knock on the door and so nothing is ever accomplished, she remarked.

DR. HEAD said he could not commit the ASMB to such an enterprise, though he knows the ASMB would be open to communication. He added that although he could provide suggestions in writing, it wouldn't be by tomorrow because he would have to consult with the rest of the ASMB first.

REPRESENTATIVE GRUENBERG, acknowledging that there are probably those who feel that the bill could still use some more work, suggested that with only two days left before the end of session, that it might be better to work on a compromise solution over the interim in order to allow for thoughtful legislative drafting. For example, perhaps including a provision in the bill to form an interim committee, made up of representatives from the interested professions, that with the assistance and guidance of the legislature, would take the language in the bill as a starting point and fine tune it so that all interested parties are satisfied, and report back to the legislature early in the upcoming legislative session, perhaps by February 1, 2005. Such an endeavor might result in the interested parties arriving at a consensus. He went on to say:

You people are used to solving problems, problems that save people's lives; surely you ought to be able to solve this problem with some help from your friends. And we in the legislature are used to solving problems too. And with a little bit of time, what do you folks think? Would that be worth doing?

DR. MALTER relayed that the ASMA made a similar suggestion when testifying in the House Health, Education and Social Services Standing Committee. He said he committed the ASMA to work on this [legislation] over the interim.

Number 0775

CHAIR McGUIRE characterized the current version of the bill as creating a profound change in state policy and law. She noted that although 14 other states are doing something similar to what the bill proposes, the details all vary. She also noted that the latest version of HB 434, Version W, failed to be reported from the House Health, Education and Social Services Standing Committee. On the issue of [perhaps forming an interim working group], she said, "I don't want this to be promises that never come through and ... some way of pushing away the issue and never coming back to it for the folks that oppose [the bill], because this is a serious issue that's going to keep coming up ... until we address it."

REPRESENTATIVE WILSON added:

I don't want the naturopaths to think that this is just something that we're brushing aside and then we

can let go [of it], because ... we do want something to happen. And I put that charge to the M.D.s because we do want to see some honest effort put forth to try to ... make some progress here, ... and we're very serious about this.

REPRESENTATIVE GRUENBERG suggested that an interim working group could meet under the auspices of both committees jointly.

REPRESENTATIVE GARA offered:

I do have one reservation about this whole approach. ... If we think that the two professions are going to get together and come up with something that they can agree upon, we have to recognize they take two completely different approaches to the practice of medicine. ... Naturopaths are naturopaths because they believe in that kind of health care; M.D.s are M.D.s because they believe in that kind of health care. There's a certain portion of their ethic that is inconsistent, that causes them to join the profession that they join. ... It might work out very well that they can come up with a very good piece of legislation that they all agree upon, but that shouldn't be a requirement. Ultimately, ... in many of the pieces of legislation we work upon, there are interest groups that have completely different views on them, and we can't expect that everybody can always come to an agreement that everybody is happy with.

Number 1017

So, ... the task force idea is good, but ultimately I don't think we should assume that ... both parties will agree to the best piece of policy. One party might and one party might not, so we have to recognize that. And I hope we can come up with a good piece of legislation. If we think that it's good, or the task force thinks it's good, even if one party doesn't ..., that's ultimately our job when interest groups can't agree with each other.

REPRESENTATIVE GRUENBERG concurred, adding that via a task force approach, the legislature can't make people agree - it can only help by providing a little mediation. "We're here to help, and if you are at a total impasse, ... we'll make the decision and

maybe neither one of you will be happy, but at least let's take it as far as it can go," he added.

CHAIR McGUIRE mentioned that the committee must recess for the purpose of allowing members to attend a caucus meeting and then a House floor session. She asked the interested parties to consider the committee's thoughts regarding an interim task force and present something in writing, if possible, to the committee as soon as possible. She said that as chair of the House Judiciary Standing Committee, she would support a bill that will direct a task force to form and work on the issues raised, perhaps with legislators present; the membership of the task force could be made up of members of the legislature, members of the allopathic medical profession, members of the naturopathic medical profession, members of the pharmacological profession, and members of any group as yet unknown to the committee with an interest in the legislation. She noted that members have heard concerns from pharmacists regarding the potential liability that could result from passage of the bill in its current form. She reiterated that she would like suggestions from the interested parties in writing, and relayed that [the committee] would try to synthesize something that will give all parties some direction over the interim.

DR. MALTER surmised, then, that the bill would become a vehicle creating an interim task force that would work on the issues raised.

CHAIR McGUIRE concurred, and indicated that aspects listed in both the House and Senate versions of the bill would be used as a starting point for negotiations.

[SB 306 was held over.]

ADJOURNMENT

Number 1258

The House Judiciary Standing Committee meeting was recessed at 5:33 p.m. [The meeting was reconvened May 10, 2004.]